

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

EMILIA PEREZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2709

Decision No. CU 615

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,974.98, was presented by EMILIA PEREZ and is based upon the asserted ownership and loss of an annuity. Claimant has been a national of the United States since her naturalization on April 8, 1962.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

This claim is based upon claimant's asserted ownership and loss of an account in the Banco del Caribe, S.A. The record contains two letters from the Czechoslovak Embassy in Washington, D. C. dated May 20, 1963 and September 18, 1963, respectively, an affidavit from claimant's father, and claimant's own statements.

Claimant states that the subject account was payable in full to her in March 1961. Claimant and her father, Antonio Perez y Martinez, indicate that claimant gave her father a power of attorney, giving the father full power and authority to collect and dispose of the subject account; that on March 27, 1961, the father personally presented said power of attorney at the Banco del Caribe and claimed payment; and that the Banco del Caribe refused to transfer the account or any part of it to claimant's father. The record discloses that claimant has resided in the United States since January 1957, and that claimant's father has not returned to Cuba since his departure on May 8, 1961.

A number of laws and resolutions were issued in Cuba affecting banks, bank accounts and currency. Not all of these things affect the account of the claimant in Claim No. CU-2709.

Law 568, published in the Cuban Official Gazette on September 29, 1959 forbade the transfer of funds abroad, and effectively operated to block the funds of anyone who left the country. Law 930, published in the Cuban Official Gazette on February 23, 1961, gave the National Bank the power to effect centralization of liquid assets "temporarily" taken from the people. In effect this froze or continued the blocking of bank accounts.

By Law 963, published in the Cuban Official Gazette on August 4, 1961, a currency exchange was effected. Currency was turned in at centers provided and a new currency was provided. There was no change in value. However, each person was to receive 200 pesos in new currency, and all over that amount was placed in a special account in his name. This did not affect bank accounts already in existence. By Law 964, published in the Cuban Official Gazette on August 9, 1961, it was provided that the owners of the deposits created under Law 963 could draw up to 1,000 pesos, the balance up to 10,000 remained in his special account, and all over 10,000 passed to the State Treasury. There were some minor exceptions. However, Laws 963 and 964 do not affect Claim No. CU-2709 in which the account did not arise from currency exchange.

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. This included such bank accounts as had not been established and confiscated by Laws 963 and 964, supra.

In order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established that the subject property was owned by a national of the United States on the date of the loss.

The record discloses that claimant did not acquire United States nationality until her naturalization on April 8, 1962. Claimant has submitted no evidence to establish any measure or action taken by the Government of Cuba subsequent to April 8, 1962, affecting claimant's interest in the subject annuity. On the contrary, all the evidence submitted by claimant indicates that her interest in the annuity was lost prior to her naturalization on April 8, 1962.

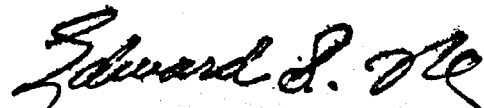
The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

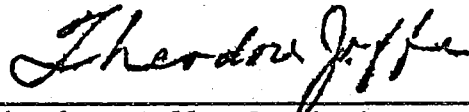
The Commission finds that claimant has not met the burden of proof in that she has failed to establish that the property upon which this claim is based was owned by a national of the United States on the date of the loss. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

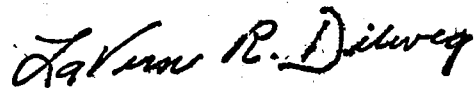
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Edward D. Re, Chairman



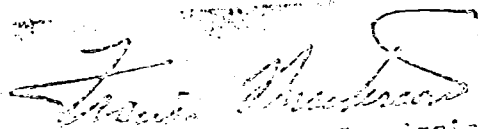
Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

**CERTIFICATION**

This is a true and correct copy of the decision of the Commission which was entered as the final decision on JUL 4 1968



Member of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2709